

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Luke Petrinovic	Team: Squad #13	CCRB Case #: 201507002	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 08/17/2015 8:35 PM	Location of Incident: In front of 230 East 50th Street	Precinct: 17	18 Mo. SOL 2/17/2017	EO SOL 2/17/2017	
Date/Time CV Reported Wed, 08/19/2015 12:53 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 08/20/2015 8:37 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT James Slavin	2133	933362	017 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Devita	20909	950319	017 PCT
2. POM Peter Scourtos	25214	934164	017 PCT
3. POM Ryan Wood	30632	933490	017 PCT
4. POM Cliff Mueller	08315	949374	017 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT James Slavin	Force: SGT James Slavin used physical force against § 87(2)(b) and § 87(2)(b) § 87(2)(b)	
B.SGT James Slavin	Force: SGT James Slavin used physical force against § 87(2)(b) § 87(2)(b)	
C.SGT James Slavin	Force: SGT James Slavin used a chokehold against § 87(2)(b) § 87(2)(b)	
D.SGT James Slavin	Force: SGT James Slavin restricted § 87(2)(b) § 87(2)(b)'s breathing.	
E.SGT James Slavin	Abuse: SGT James Slavin issued a summons to § 87(2)(b) § 87(2)(b)	

Case Summary

On August 19, 2015, § 87(2)(b) § 87(2)(b) filed this complaint online with the CCRB. § 87(2)(b) § 87(2)(b) appeared at the CCRB and provided a verified statement on August 26, 2015.

On August 17, 2015, at approximately 8:35 p.m., § 87(2)(b) as well as 20-30 other unidentified individuals participated in a protest organized through Black Lives Matter in the vicinity of 230 East 50th Street, in Manhattan. The group had turned down 50th Street after marching south on 3rd Avenue, and had been marching on several surrounding streets before that. They marched in active traffic lanes, and on several occasions intentionally blocked traffic.

On 50th Street, SGT James Slavin, of the 17th Precinct, followed the group in the street and repeatedly told people to get out of the street and onto the sidewalk. No one complied with SGT Slavin's instructions. SGT Slavin walked up beside § 87(2)(b) § 87(2)(b) and made the decision to arrest her for disorderly conduct. SGT Slavin pushed § 87(2)(b) § 87(2)(b) against a car parked nearby, and shortly thereafter brought her to the ground (**Allegation A**). After initiating the arrest of § 87(2)(b) § 87(2)(b) SGT Slavin called for back-up over the radio. While they were on the ground, § 87(2)(b) § 87(2)(b) kneeled beside them, and attempted to physically intervene in the arrest of § 87(2)(b) § 87(2)(b) SGT Slavin pushed § 87(2)(b) § 87(2)(b) out of the way (**Allegation B**). As they were on the ground, the protesters surrounded SGT Slavin and § 87(2)(b) § 87(2)(b) and began shouting at SGT Slavin.

At this time, PO Brian Devita and PO Cliff Mueller arrived on the scene in response to SGT Slavin's call for assistance. PO Devita handcuffed § 87(2)(b) § 87(2)(b) and SGT Slavin stood up and attempted to disperse the crowd that was still surrounding them on the street. SGT Slavin approached § 87(2)(b) § 87(2)(b) who was standing in the street shouting at him. SGT Slavin walked towards § 87(2)(b) § 87(2)(b) and told him several times to back up. § 87(2)(b) § 87(2)(b) took several steps back and continued to shout at SGT Slavin, "Who do you protect? Who do you serve? Who pays your salary?"

At this point, SGT Slavin reached out to grab § 87(2)(b) § 87(2)(b)'s wrist. § 87(2)(b) § 87(2)(b) pulled away and jumped back onto the sidewalk, turning his body away from SGT Slavin in the process. SGT Slavin immediately followed him, grabbed § 87(2)(b) § 87(2)(b) from behind and pulled him to the ground (**also Allegation A**). In the process, SGT Slavin placed § 87(2)(b) § 87(2)(b) in a chokehold, restricting his breathing (**Allegations C and D**).

Other officers arrived and handcuffed § 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) were taken to the 17th Precinct stationhouse. At the stationhouse, SGT Slavin instructed PO Devita to release § 87(2)(b) § 87(2)(b) with a summons for disorderly conduct, subsection 5 (**Allegation E**). § 87(2)(b) § 87(2)(b) was charged with disorderly conduct, subsections 5, 6, and 7, and resisting arrest.

This case was originally assigned to Inv. Roach. It was reassigned to the undersigned investigator on November 2, 2015, due to Inv. Roach's departure from the agency.

Video Footage

Video footage of the incident was taken by § 87(2)(b) § 87(2)(b) on a cell phone.

At the beginning of the video, approximately 20 protesters can be seen walking in the street holding signs and chanting, "We want justice." SGT Slavin is walking with the group of protesters.

At 00:10 seconds, SGT Slavin walks over to § 87(2)(b) and begins to walk next to her. He appears to be talking to her, but what is said is not audible. Then SGT Slavin begins to shove § 87(2)(b) with both hands towards the left side of the street. § 87(2)(b) pushes back with her body. SGT Slavin continues to steadily push § 87(2)(b) and she swings her right arm around and faces him. SGT Slavin pushes § 87(2)(b) backwards against a parked car, using both hands against her chest.

At 00:20 seconds, SGT Slavin is holding § 87(2)(b) against the car. She does not appear to be resisting. Numerous individuals surround SGT Slavin at this point and start shouting “Shame.” Several individuals are touching SGT Slavin. SGT Slavin takes out his radio and talks into it, however what he says cannot be heard.

At 00:28 seconds, SGT Slavin and § 87(2)(b) fall to the ground, and are quickly surrounded by several protesters, including § 87(2)(b) § 87(2)(b). The protesters start to pull at SGT Slavin’s arms as he kneels above § 87(2)(b) holding her on the ground. After several seconds, all the protesters let go of SGT Slavin, with the exception of § 87(2)(b) § 87(2)(b) who stays kneeling on the ground in between SGT Slavin and § 87(2)(b) holding onto § 87(2)(b). The group continues to shout “Shame” at SGT Slavin.

At 00:50 seconds, a marked police car pulls up behind SGT Slavin, and SGT Slavin pushes § 87(2)(b) away with both hands. PO Devita and PO Mueller exit the car and run up to SGT Slavin. They push the crowd away from SGT Slavin and crouch down next to § 87(2)(b). The officers handcuff § 87(2)(b) and the crowd starts chanting, “Who do you protect? Who do you serve?” repeatedly.

At 01:20 seconds, other officers arrive on the scene, and SGT Slavin, PO Devita, and PO Mueller stand up from where they had been handcuffing § 87(2)(b) on the ground. Officers can be heard saying “Back up.” At 01:30 seconds, SGT Slavin starts addressing § 87(2)(b) who is chanting, “Who do you protect? Who do you serve?” § 87(2)(b) is standing in the street close to the lane of parked cars; however there are no cars parked between him and the sidewalk. SGT Slavin says, “Back up,” to § 87(2)(b) twice, and points to the sidewalk. § 87(2)(b) keeps chanting, and SGT Slavin says, “Get off the street please,” twice. As they are talking § 87(2)(b) is taking small steps backwards towards the sidewalk, and SGT Slavin is advancing forward.

At 01:35 seconds, § 87(2)(b) starts saying, “Who pays your salary?” and begins to point at SGT Slavin with both hands. SGT Slavin says, “I’m not gonna ask you again [to] get off the street.” SGT Slavin reaches out and grabs § 87(2)(b)’s left wrist with both hands. § 87(2)(b) pulls away from him and jumps several feet back onto the sidewalk, turning his body to the left and away from SGT Slavin in the process. As he jumps, SGT Slavin reaches out and grabs § 87(2)(b)’s shirt by his right shoulder with his right hand.

§ 87(2)(b) takes several more sidesteps onto the sidewalk. As he moves, SGT Slavin maintains a grip on his shoulder and reaches with his left arm around § 87(2)(b)’s back. SGT Slavin then wraps his arms around § 87(2)(b) from behind, with his left arm over § 87(2)(b)’s left shoulder, and his right arm under § 87(2)(b)’s right arm. Both individuals are facing away from the camera.

at this time. An unidentified male in the crowd starts shouting that SGT Slavin has § 87(2)(b) in a chokehold.

At 01:40 seconds, SGT Slavin pulls § 87(2)(b) to the ground, and gets on his knees beside him, leaning over his body. On the ground, § 87(2)(b) is lying on his left side and SGT Slavin has his left arm wrapped around the left side of § 87(2)(b)'s neck. At 01:50 seconds, other officers come over to SGT Slavin and § 87(2)(b). SGT Slavin removes his arm from around § 87(2)(b)'s neck and places it against the other side of § 87(2)(b)'s head. At 01:57, § 87(2)(b) rolls onto his stomach and places his arms behind his back. SGT Slavin and another unidentified officer handcuff § 87(2)(b). At 02:20 seconds, SGT Slavin and the unidentified officer stand up, lift § 87(2)(b) to his feet, and start walking with him into the street.



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Mediation, Civil and Criminal Histories

- Due to § 87(2)(b)'s arrest and the allegations of a chokehold and restricted breathing, this case was not eligible for mediation.
- As of November 27, 2015, Office of Court Administration records show no criminal convictions for § 87(2)(b) or § 87(2)(b) (Board Review 10, 11, 12 and 13).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) or § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b)
- SGT Slavin has been the subject of 31 allegations across 11 CCRB complaints, apart from this one, during his 12 years with the NYPD. He has two previous allegations of force, which were closed as Complainant Uncooperative, and Unsubstantiated, respectively. Four allegations of misconduct across two separate cases have been substantiated against SGT Slavin (Board Review 02):
 - In case 200704978, SGT Slavin was found to have unlawfully stopped an individual. SGT Slavin also failed to prepare a memo book entry regarding that incident. The CCRB recommended charges for SGT Slavin, and he received a command discipline.
 - In case 201411582, SGT Slavin was found to have unlawfully stopped, frisked and searched someone. The CCRB recommended a command discipline, and the NYPD has yet to take disciplinary action.

Potential Issues

§ 87(2)(b) and § 87(2)(b) all declined to participate in the investigation. On August 25, 2015, § 87(2)(b) was reached by phone and stated that she would not provide a verified statement until after her criminal case was concluded. On September 24, 2015, § 87(2)(b) was called and stated she would not provide a statement until § 87(2)(b)'s criminal trial was over. On August 28, 2015, § 87(2)(b) was called and he stated that he would not be interviewed until after his summons was resolved. § 87(2)(b) did not respond to five additional voicemails left at the number he provided, one of which was left after his summons had been dismissed.

On September 9, 2015, § 87(2)(b) sent an email to the CCRB stating that he did not want to be contacted for the investigation. On September 14, 2015, § 87(2)(b) was called and he stated that he did not want to participate in the investigation.

When § 87(2)(b) provided a phone statement on September 9, 2015, she scheduled an interview for September 14, 2015, which she did not appear for. She was called four additional times at the number she provided between September 15, 2015, and September 24, 2015, and two letters were sent to the address she provide on September 15, 2015, and September 18, 2015. On two of the calls, § 87(2)(b) disengaged the call with Inv. Roach. On the other calls, voicemail messages were left requesting a call back. On November 27, 2015, a search of the Department of Correction showed that § 87(2)(b) is not currently incarcerated. As of November 27, 2015, none of the letters sent to § 87(2)(b) have been returned by USPS as undeliverable, and § 87(2)(b) has not contacted the CCRB.

Findings and Recommendations

Explanation of Subject Officer Identification

SGT Slavin confirmed that he interacted with § 87(2)(b) and § 87(2)(b). Both SGT Slavin and PO Devita confirmed that it was SGT Slavin's decision to apprehend and ultimately issue a summons to § 87(2)(b).

Allegation A - Force: SGT James Slavin used physical force against § 87(2)(b) and

§ 87(2)(b)

It is undisputed that SGT Slavin used force against § 87(2)(b) and § 87(2)(b). It is confirmed by both civilian and officer testimony, as well as the video footage of the incident. SGT Slavin stated that he told § 87(2)(b) twice to exit the street, and then decided to arrest her when she ignored him and grabbed her wrist. His only reason for singling her out was that she was, at that moment, the closest person to him in a crowd that was committing disorderly conduct by blocking traffic on East 50th Street. SGT Slavin could not recall if he informed § 87(2)(b) that she was under arrest before grabbing her. § 87(2)(b) pulled away from him and tried to walk away, and they ended up against a parked car. Several other individuals started pushing and pulling on SGT Slavin, and he pulled § 87(2)(b) to the ground to gain control. SGT Slavin believed that there were other officers behind him as he had seen them marching with the crowd earlier; however, he did not look back to verify this during the incident (Board Review 04).

§ 87(2)(b) stated that SGT Slavin said nothing to her directly before pushing her against a parked car and pulling her to the ground (Board Review 05). In the video, it is not clear what SGT Slavin is saying to § 87(2)(b). SGT Slavin can be seen walking next to § 87(2)(b) and then

grabbing her. § 87(2)(b) attempts to stay put, and SGT Slavin pushes her against a parked car. Several individuals surround and grab SGT Slavin and § 87(2)(b) and they fall to the ground. In the video, SGT Slavin is the only officer with the crowd until the arrival of PO Devita and PO Mueller.

Patrol Guide Procedure 203-11 authorizes police officers to use the minimum force necessary to affect an arrest (Board Review 03). Individuals are allowed to verbally dispute charges with police officers, and doing so does not constitute disorderly conduct People v. Square, 20 Misc. 3d 1126A (Crim. Ct. New York City. 2008). (Board Review 14).

§ 87(2)(b), § 87(2)(g)

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Allegation B - Force: SGT James Slavin used physical force against § 87(2)(b) § 87(2)(b)

It is undisputed that SGT Slavin pushed § 87(2)(b) away from § 87(2)(b) after she attempted to intervene in the arrest. The video clearly shows § 87(2)(b) kneeling next to § 87(2)(b) after she had been taken to the ground by SGT Slavin, and placing her body in between § 87(2)(b) and SGT Slavin. SGT Slavin, who is the only officer on scene at this point and surrounded by a crowd, pushes § 87(2)(b) once, removing her from § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation C - Force: SGT James Slavin used a chokehold against § 87(2)(b) § 87(2)(b)

Allegation D - Force: SGT James Slavin restricted § 87(2)(b) § 87(2)(b)'s breathing.

§ 87(2)(b), § 87(2)(g)

SGT Slavin stated that he grabbed § 87(2)(b) from behind by wrapping his arms around him, which is how he was taught to take people to the ground. His right arm was below § 87(2)(b)'s right arm, and he could not recall whether his left arm was above or below § 87(2)(b)'s left arm. § 87(2)(b) resisted by tensing his body for approximately four seconds. He denied ever coming in contact with § 87(2)(b)'s neck, placing him in a chokehold, or restricting his breathing.

§ 87(2)(b) stated that SGT Slavin placed his arm across his throat and placed him in a chokehold, restricting his breathing. The video shows SGT Slavin grabbing § 87(2)(b) from behind after § 87(2)(b) jumps away from him. SGT Slavin wraps both arms around § 87(2)(b) with his right arm below § 87(2)(b)'s right arm and his left arm above § 87(2)(b)'s left shoulder, crossing over the front of his chest. Both SGT Slavin and § 87(2)(b) are facing away from the camera at this point. He holds § 87(2)(b) like this for 10 seconds as he pulls him to the ground. During this time, an unidentified member of the crowd starts shouting that SGT Slavin has § 87(2)(b) in a chokehold.

Patrol Guide Section 203-11 prohibits the use of chokeholds and describes them as “any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air.” (Board Review 03).

§ 87(2)(b), § 87(2)(g)

Allegation E - Force: SGT James Slavin issued a summons to § 87(2)(b) § 87(2)(b)

It is undisputed that SGT Slavin decided to charge § 87(2)(b) with disorderly conduct. § 87(2)(b) was ultimately issued a summons for disorderly conduct, subsection 5, for obstructing vehicular traffic, by PO Devita (Board Review 08). Both PO Devita (Board Review 09) and SGT

Slavin confirmed that it was SGT Slavin's decision to issue § 87(2)(b) the summons. The narrative of the summons is not complete, and only states "At time place of occurrence defendant did." PO Devita explained that he had forgotten to fill it out. According to court records, the summons was dismissed on November 4, 2015.

SGT Slavin stated that § 87(2)(b) was obstructing vehicular traffic at the time of his arrest because he was in the street and the crowd was obstructing traffic from moving down East 50th Street, and PO Devita corroborated this. Both officers, after viewing the video stated that § 87(2)(b) was in violation of subsection 5 of the disorderly conduct statute at the point in the video when he can be seen arguing with SGT Slavin immediately before his arrest. As previously stated, the video shows that § 87(2)(b) was backing up in response to SGT Slavin's instructions, and that he was standing in the parking lane at the time of his arrest and therefore not obstructing traffic.

§ 87(2)(b), § 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date